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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,841	01/12/2006	Michihiro Izumi	03500.103508,	2240
5514	7590	03/24/2010		
FITZPATRICK CELLA HARPER & SCINTO			EXAMINER	
1290 Avenue of the Americas			SING, SIMON P	
NEW YORK, NY 10104-3800			ART UNIT	PAPER NUMBER
			2614	
MAIL DATE		DELIVERY MODE		
03/24/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/564,841	<b>Applicant(s)</b> IZUMI, MICHIIRO
	<b>Examiner</b> SIMON SING	<b>Art Unit</b> 2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(o).

#### Status

- 1) Responsive to communication(s) filed on 14 January 2010.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-15 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement (PTO/SB/08)
- Paper No(s)/Mail Date 01/20/2010
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date: \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bashoura et al. US 6,310,942 in view of Sehgal US 6,618,165.

1.1 Regarding claims 1, 5 and 9, Bashoura teaches a system and method for sending image data (fax message) to a far-end terminal (opponent station), comprising:

communication control means (fax director 3) for sending a fax message to the far-end terminal (column 3, lines 53-62; column 4, lines 36-41),

if a far-end terminal has an IP address, sending the image data, not facsimile modulated, to the far-end terminal using an IP protocol (FTP), wherein the IP address is obtained from an telephone number of the far-end terminal (column 4, lines 54-67; column 5, lines 1-19), and

when a far-end terminal does not have an IP address, sending the image data, using facsimile modulation, to the far-end terminal through a telephone network PSTN 25 (column 5, lines 48-60).

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Bashoura teaches sending the image data to a far-end terminal through PSTN 25 when the far-end terminal does not have an IP address. Bashoura fails to teach the PSTN 25 using an IP network with gateways for transmitting fax messages.

However, Sehgal teaches that instead of sending a fax document through a PSTN, an end office of a PSTN sends the fax document though an Internet (IP network) via gateways. For example, an originating end office 104 send the fax document to an originating gateway 106, which transmits the fax document through Internet 108 using TCP/IP, and a terminating gateway 112 converts the received fax document into signals recognized by a telephony end office 114, which forwards the received fax document to a terminating fax machine to bypass PSTN 110 (figure 1; column 1, lines 45-50; column 2, lines 31-50; column 3, lines 7-47).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Bashoura reference with the teaching of Sehgal, so that PSTN 25 would have utilized Internet and gateways for transmitting image data if the far-end terminal did not have an IP address. The motivation of such a modification was to reduce PSTN long distance transmission cost as taught by Sehgal (Sehgal: column 1, lines 47-50).

1.2 Regarding claims 2, 6 and 10, the modified Bashoura reference teaches that when a far-end (destination) terminal does not have an IP address, the image data is first facsimile modulated, and then is digitally encoded by a

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gateway. Also as well known in the art, a sending fax machine generates and sends a 1100 Hz CNG tone to a receiving fax machine, and the receiving fax machine generates and sends back a 2100 Hz CED tone.

1.3 Regarding claims 3, 7 and 11, Bashoura teaches whether using facsimile modulation for sending the image data is based on the far-end terminal's telephone number (column 4, lines 54-67; column 5, lines 1-20, 48-60).

1.4 Regarding claim 4, 8 and 12, Bashoura teaches sending the image data using the IP address of the far-end terminal (column 4, line 54 to column 5, line 20).

1.5 Regarding claims 13-15, the modified Bashoura reference teaches digitally encoding the fax modulated image data by a first (originating) gateway 106 in Sehgal for transmitting through Internet using TCP/IP

***Response to Arguments***

2. Applicant's arguments filed 01/14/2010 have been fully considered but they are not persuasive.

Applicant argues that the prior art of record does not teach or suggest the claimed limitations, because the terminating gateway 112 forwards the received data to the terminating end office 114, which converts the scanned data to fax format, dials the terminating fax machine 116 and provides the fax data to fax

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machine 116. If no IP address exists for the terminating side, then the fax data received by the originating office 104 is transmitted via the PSTN to terminating office 114 to be forwarded to fax machine 116. Thus, in Sehgal, if no IP address is present, the fax data is transmitted via the PSTN and the system does not send digital encoded data from facsimile modulated data to a media gateway on the opponent side as in the present claims.

Examiner respectively disagrees. As stated in the rejection above, Bashoura teaches sending a fax message through Internet if a receiving fax terminal has an IP address, or sending the fax message through PSTN if the receiving fax terminal does not have an IP address. Sehgal teaches that a PSTN sends a fax document through Internet/gateways to reduce transmission cost comparing to traditional PSTN telephone lines. Gateways, as known in the art, convert telephony signals to digital signals and protocols between Internet and PSTN. Sehgal also teaches that the fax document received by the terminating gateway 112 is converted to telephony signals for PSTN end office 114, which forwards the converted signals to a terminating fax machine (examiner would like to point out that the signal conversion is performed by terminating gateway 112, not by end office 114 as argued by the applicant, see Sehgal, col. 3, lines 40-46). Therefore, it would have obvious for one ordinary skill in the art to substitute the method and system of sending fax message by a PSTN 110 (which comprising end offices) in Sehgal for the method and system for sending fax messages by PSTN 25 (which inherently also comprising end offices) in Bashoura.

***Conclusion***

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Simon Sing whose telephone number is 571-272-7545. The examiner can normally be reached on Monday - Friday from 8:30 AM to 5:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang, can be reached at 571-272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

/Simon Sing/

Primary Examiner, Art Unit 2614